

DOCKET FILE COPY ORIGINAL

RECEIVED & INSPECTED

AUG 29 2003

FCC - MAILROOM

August 19, 2003

Federal Communications Commission
Office of the Secretary
445 - 12th Street, SW
Washington, DC 20554

Fax no. 202-418-0187

Re **CC Docket No. 02-6**
Request for Review
For Lansing Public School District

Billed Entity Number 131276

Discount Percentage 73%

Form 471 Application Number 300078

Funding Request Number 770948

Service Provider Name Century Cellunet of Lansing

SPIN # 143000483

Total Expenditures Forecast \$24,374.83

Original Pre-Discount \$18,322.08

Discussion

The denial from USAC of June 30, 2003 for FRN 770948 is based upon **"30% or more of this Frn is for cellular service to pupil accounting, parent and literacy coordinators, attendance officers, and human resources that are ineligible per program rules."**

The Lansing Public School District agrees with and understands that if an applicant included 30% ineligible items with their FRN request the request would be denied, but, the rule now appears to be interpreted somewhat differently from the past. This is a change over practice in previous funding years.

Lansing Public School District seeks positive support from the FCC to approve the Pre-discount amount of \$18,322.08 for cellular service for FRN # 0000770948.

Lansing Public School District asserts the following reasons.

The entire expense for cellular communications eligible and ineligible on a yearly basis was \$24,374.83. (See attached bills from CenturyTel)

The Lansing Public Schools subtracted \$6,052.75 or 25% as ineligible expense according to program rules leaving a prediscount of \$18,322.08

The SLD states that Pupil Account @ \$230.75, Area Directors @ \$83.70, Attendance @ \$116.58; and Literacy & Parent @ \$64.70 for a total of \$495.73 per month exceeds 30%. \$495.73 extended for 12 months is \$5,948.76.

The Lansing Public School District asserts that Pupil Accounting, Area directors, and Attendance are Central Office staff positions and functions necessary to fulfill the State School code for the students of Michigan.

The 30% question is one of fairness. Applicants should be given fair warning prior to the closing of the window. In previous years, instead of having funding denied if the request was in excess of the evidence, the funding level was simply lowered to the substantiated amount.

Lansing Public School District agrees with the following statements provided by the Council for Chief State School Officers Alliance as their testimony for the third meeting of the FCC Hearings on Waste, Fraud and Abuse on the E-Rate program:

The Administrator's implementation of the 30 percent policy has seemingly turned into a bludgeon that does much more to assure that legitimate requests are not funded, rather than guaranteeing that ineligible requests are denied.

Errors by applicants in calculating costs, and errors by the Administrator in reviewing these, will inevitably occur. But instead of working with applicants to substantiate and modify requests in the review process, it has turned into a case of "30 percent gotcha", wherein unfair complete denials are occurring.

Finally, in contrast, if the applicant underestimates eligible services, the program does not allow applicants to increase the request to cover additional, unexpected costs or charges.

In its continuing efforts to address waste, fraud, and abuse, the FCC should continue to allow the SLD Administrator some limited latitude to deny entire funding requests where they believe blatant price inflation has occurred. However, to intentionally deny applicants like Lansing Public School District and others in the "30% unsubstantiated" group their rightful funding - due to simple mistakes for which applicants are quickly willing to correct - is contrary to the goals of the Telecommunications Act. The Administrator's past practice was much more appropriate - reviewers lowered the request to the substantiated amount of eligible services - miscalculations and mathematical errors were adjusted and remedied in the review process.

While the Order specifically denied a suggestion that the SLD Administrator should inform applicants prior to issuance of a funding denial, the CCSSO Alliance believes this position by the Commission fails to consider the totality of the review process - the notion that applicants and SLD Administrator maintain communication so that applicants are aware of what is incorrect and needs substantiation and/or adjustment, then make the proper adjustment to the funding request.

Lansing Public School District seeks positive support from the FCC to approve the pre-discount amount of \$18,322.08 for FRN # 0000770948. Lansing Public School District believes the program's application process requires applicants to infer future costs of eligible services based on information that is often 6-9 months from the actual effective date. Errors by applicants in calculating cost, clerical errors, and errors by the SLD in reviewing these, will inevitably occur. But mistakes on both sides happen with a program as complicated and administratively burdensome as the E-rate. To use this rule as it is currently being implemented, and not allow the SLD leeway in adjusting funding requests is just not fair to the applicant community.

Sincerely,

Stephen L. Maiville
USF Contact
Phone-517-325-6425-ex. 1130
Fax-517-223-6121
E-Mail-smaivill@lsd.k12.mi.us

Attachment: Lansing Public School District original item 21 attachment for Century Cellnet of Lansing

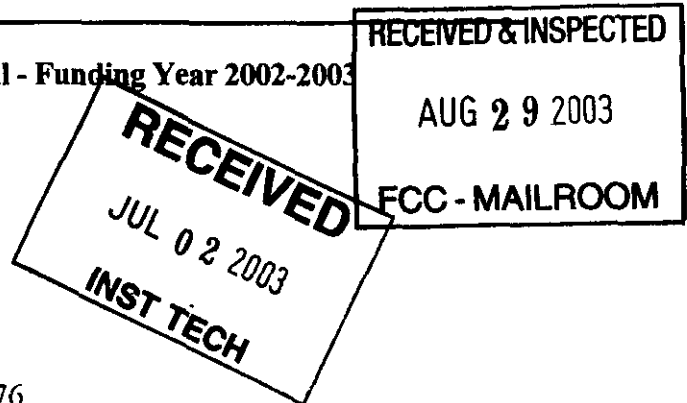


Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal - Funding Year 2002-2003

June 30, 2003

Stephen L. Marville
Lansing Public Schools
519 W. Kalamazoo St.
Lansing, MI 48933 2008



Re: Billed Entity Number: 131276
471 Application Number: 300078
Funding Request Number(s): 770948
Your Correspondence 3/10/2003
Received:

After thorough review and investigation of all relevant facts, the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") has made its decision in regard to your appeal of SLD's Year 2002 Funding Commitment Decision for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission ("FCC"). If your letter of appeal included more than one Application Number, please note that for each application for which an appeal is submitted, a separate letter is sent.

Funding Request Number: 770948
Decision on Appeal: **Denied in full**
Explanation:

- Your appeal correspondence states you were denied based on ineligibles found to be greater than 30% of the funding request, specifically, cell phone use by Pupil Account, Atten., Literacy and Parent Coordinators which are ineligible uses. You contend the total expense for cellular communications is \$23,374.83/yr and that \$6,052.75 was deducted leaving a pre-discount amount of \$18,322.08. You confirm the Pupil Accounting of \$230.75, Area Directors of \$83.70, attendance of \$116.58, and Literacy & Parent of \$64.70 totals \$495.73/mo and is more than 30% of the monthly request. You also state that \$495.73/mo totals \$5,948.76/yr, or 24% of the cellular expense for the entire year of \$24,374.83. You include an excerpts from the SLD website pertaining to Administration Buildings, Telephone Service, and Cellular Service, and you contend that the 30% ineligible calculation was used incorrectly. You assert that the described functions are used by the central school administrators located in instructional and administrative facilities described as eligible. Lastly the you contend that the description of these services

is provided by the vendor, and that the personnel involved are central administrators contracted to support the administrative requirements of providing instruction to students, and are not involved with transportation, maintenance or other non-eligible activities, as such ineligibles were deducted to arrive at the pre-discount amount as requested.

- Upon thorough review of this appeal it was determined that invoices you provided as part of your item 21 attachments, to verify your funding request, included monthly recurring charges for pupil accounting, parent coordinator, attendance offices, human resources, director of cable TV, and late charges. These ineligible charges total \$541/mo, without the inclusion of the area director charges and food services director. These ineligible recurring charges have been included in your monthly funding request as evidenced by the documentation you have provided and exceed 30% of the \$1526/mo in funding requested. Program rules require that funding requests containing 30% or greater of ineligible products/services be denied. As your funding request includes more than 30% of ineligible services, your appeal is denied.
- Your Form 471 application included costs for the following ineligible services: pupil accounting, parent and literacy coordinators, attendance offices, and human resources. FCC rules provide that discounts may be approved only for eligible services. See 47 C.F.R. §§ 54.502, 54.503. The USAC website contains a list of eligible services. See USAC website, <http://www.universalservice.org>, Eligible Services List. Program procedures provide that if 30% or more of an applicant's funding request includes ineligible services, the funding request must be denied. Therefore, your funding request was denied. You did not demonstrate in your appeal that your request included less than 30% for ineligible services. Consequently, SLD denies your appeal.

If you believe there is a basis for further examination of your application, you may file an appeal with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. **Your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal.** If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

We thank you for your continued support, patience, and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

ITEM 21 ATTACHMENT
Lansing School District
BILLED ENTITY NUMBER 131276
UNIVERSAL SERVICE FUND REQUEST
2002-2003-471
471 APPLICATION NUMBER 300078

VENDOR:

NAME

SPIN

Century Cellunet of Lansing

143000483

ATTACHMENT #

TS-4

AMOUNT OF REQUEST:

\$

18,322.08

Acct # 09510645 - 1143.72 per mo.
31992068 - 396.24
1539.96

* We have been working to get USF & Non-USF wireless divided into differed invoices from the vendor - we are almost there! Only one left is Food Sec Director - 1185.57 - 41.85 = 1143.72.

PROTECT YOUR WIRELESS INVESTMENT!

The statistics may surprise you. Recent estimates indicate that over 10 million wireless phones will be stolen this year. Even more will be lost or damaged.

Phone Replacement Insurance is designed specifically for the replacement of your lost, stolen or damaged phone. In addition, it covers replacement of equipment that is no longer covered by the manufacturer's warranty. Low Cost, Big Benefits:

Covers accessories when lost or stolen with the phone. Covered accessories include: Standard Battery, Standard Charger, Standard Cigarette Lighter Adapter and Standard 3-watt Booster Kits. Rapid Replacement. In most cases equipment is replaced within 72 hours of claim filing.

Beginning with the date of the first loss, insured equipment will be replaced up to twice per 12-month period. The per-claim deductible is only \$25.00. Claims can be filed night or day by phone or by e-mail.

It's easy to take advantage of Phone Replacement Insurance for a low monthly fee of \$3.95, conveniently added to your monthly wireless bill. Simply contact CenturyTel at 1-800-421-6276. Phone Replacement Insurance is a service provided to customers of CenturyTel and is administered by (The Merrimac Group, Inc, a division of Asurion), and underwritten by Zurich American Insurance Company.

FOR CUSTOMER SERVICE AND BILLING INQUIRIES CALL (800) 848-4577

RECEIVED

JAN 25 2002.

CIS

DATE: Jan 19, 2002
ACCOUNT: 09510645

PAGE 2

ACCOUNT SUMMARY

Previous Balance	Payments Received	Adjustments	Amount Past Due	Total Current Charges	Pay This Amount
1681.27	0.00	2.40CR	1678.87	1185.57	2864.44

PAST CHARGES AND CREDITS

Previous Balance	1681.27
Adjustments	2.40CR
Amount from Last Bill	1678.87
AMOUNT PAST DUE	1678.87

CURRENT CHARGES AND CREDITS

Late Charge	25.18
Service Charges	
Monthly Service	649.14
Voice Mail	0.00
Usage Charges	
Airtime/Talktime 3820.0 Minutes	0.00
Long Distance	67.50
Directory Assistance	8.14
Local Usage & Calls	0.18
Roaming	232.57
Other Charges and Credits	
Other Charges and Credits	202.86
Taxes	
Federal	0.00
State	0.00
County	0.00
Local	0.00

TOTAL CURRENT CHARGES (through 01/14/02)

PAY THIS AMOUNT by 02/11/02

Adjustments Detail
01/04 MICHIGAN 911 FEE
Total Adjustments

2.40CR
2.40CR

Accounting Date 1/25/02
OK to pay \$ 1185.57
Cheryl Wyman - CIS

CENTURYTEL

RECEIVED

JAN 28 2002

PROTECT YOUR WIRELESS INVESTMENT!

The statistics may surprise you. Recent estimates indicate that over 10 million wireless phones will be stolen this year. Even more will be lost or damaged.

Phone Replacement Insurance is designed specifically for the replacement of your lost, stolen or damaged phone. In addition, it covers replacement of equipment that is no longer covered by the manufacturer's warranty.

Low Cost, Big Benefits:

Covers accessories when lost or stolen with the phone. Covered accessories include: Standard Battery, Standard Charger, Standard Cigarette Lighter Adapter and Standard 3-watt Booster Kits.

Rapid Replacement. In most cases equipment is replaced within 72 hours of claim filing.

Beginning with the date of the first loss, insured equipment will be replaced up to twice per 12-month period. The per-claim deductible is only \$25.00.

Claims can be filed night or day by phone or by e-mail.

It's easy to take advantage of Phone Replacement Insurance for a low monthly fee of \$3.95, conveniently added to your monthly wireless bill. Simply contact CenturyTel at 1-800-421-6276. Phone Replacement Insurance is a service provided to customers of CenturyTel and is administered by (The Merrimac Group, Inc, a division of Asurion), and underwritten by Zurich American Insurance Company.

FOR CUSTOMER SERVICE AND BILLING INQUIRIES CALL (800) 848-4577

CENTURYTEL

DATE: Jan 19, 2002
ACCOUNT: 31992068

PAGE: 2

ACCOUNT SUMMARY

Previous Balance	Payments Received	Adjustments	Amount Past Due	Total Current Charges	Pay This Amount
480.86CR	0.00	2.88CR	483.74CR	396.24	87.50CR

PAST CHARGES AND CREDITS

Previous Balance	480.86CR	
Adjustments	2.88CR	
Amount from Last Bill		483.74CR

CURRENT CHARGES AND CREDITS

Service Charges		
Monthly Service		155.74
Voice Mail		0.00
Usage Charges		
Airtime/Talktime 1000.0 Minutes		174.24
Long Distance		17.25
Directory Assistance		0.74
Other Charges and Credits		
Other Charges and Credits		48.27
Taxes		
Federal		0.00
State		0.00
County		0.00
Local		0.00

TOTAL CURRENT CHARGES (through 01/14/02)

396.24

TOTAL ACCOUNT BALANCE

87.50CR

Adjustments Detail
01/04 MICHIGAN 911 FEE
Total Adjustments

2.88CR

2.88CR

Accounting Date

OK to pay credit left \$87.50

Cheryl Wyman - CIS

①

**Response to March 7, 2003 request
Case SR-2002-BEN#131276
Second request for clarification
Lansing School District**

*Prepared by Stephen L. Maiville
Lansing School District
Voice 517.325.6425
Fax 517.325.6429
Email smaivill@lsd.k12.mi.us*

See page 3

To Whom It May Concern:

I will be addressing the questions related to your March 7, 2003 communication on a paragraph-by-paragraph basis. I will be touching base with you to see if any further items need addressing.

Paragraph 1, under the Contracts Area, you wrote: In your response on 2/27, you had indicated that the Broadwig contract is under chapter 11. I can not seem to locate the broadwig contract. Please provide signed and dated copies of contracts from Broadwig or any binding agreement relating to your Funding Year 5 Form(s) 471.

Response: This actually appeared under Chapter 10 of my documentation, and came as part of the Telecommunications contracts sent. The mention of it being part of Chapter 11 is a typographical error. I am attaching another copy, enlarged, to this document as well.

Paragraph 2, under the Contracts Area, you wrote: Also, in your response on 2/27, you have provided a contract from Ameritech signed on 11/20/01, but according to your 471, the contract is signed on 12/12/00 which would be before the ACD. Please provide the establishing Form 470 for the contract signed on 11/20/01 or provide the contract which is signed on 12/12/00.

Response: The Establishing Form 470 number is 962790000305379, from USF Year 4.

See page 3

2

Paragraph 3, under the Contracts Area, you wrote: For IBM, Digital Data, and Superior you had indicated that the temporary PO's are your binding agreement. Your PO's were dated 1/12/01, ACD is 11/19/01. Please provide the establishing form 470.

Response: The 1/12/01 date is a clerical error, it should have been 1/12/02. Corrections to the year have been made and initialed, and revised copies are attached. They follow the Broadwing Contract Pages from Paragraph 1 above. In my follow-up since the 2/27 response I have also uncovered a temporary PO for MSU, which also has the same typographical error. It follows the revised IBM, Digital Data, and Superior temporary po's, and also has been corrected and initialed. This was included in the original 471 documentation submitted to the USAC for USF year 5.

Paragraph 4, under the Contracts Area, you wrote: If contracts are not provided, please explain why you have not provided them. If the price on the contract is different from the pre-discount price on your Form(s) 471 please explain the difference and account for the difference. (For example, if the dollar amount on the contract is higher than the dollar amount on your Form(s) 471, indicate which services have been backed out, if that is the case. If the dollar amount on the contract is lower than the dollar amount on your Form(s) 471, explain why.)

Response: I will be calling you to have a dialog regarding this item, as I am a bit unsure if the questions were raised by items already in this response, or whether it is from other frn's not yet addressed by this response. The following paragraphs were presented in the first response, and are being re-printed if they can serve of any value to this response:

LANSING SCHOOL DISTRICT: The signed and dated contracts question should be answered in the previous response. In responding to your request for differences between the pre-discount price and the contract (or temporary PO) price are different, we offer the following rationale:

- For the Superior Electric of Lansing FRN(s), the original bid from Superior did not include metallic raceway for classrooms, as the engineering consultant detected. When they solicited the amendments to the bids, the cost of the entire project was increased by \$6000 to cover the cost of the metallic raceway. In a discussion with Superior Electric, we agreed to add \$200 to each of the 30 buildings in the bid that we submitted Funding Requests for. Some of the numbers may be a bit confusing because Plante and Moran, the engineering consultants, included Performance bonds in comparing the bids. Our purchasing office, in preparing bid documents or having others prepare them, has this listed as a separate line item. This is so the bids are compared without the bid bond. Another item that may cause some confusion here is that one of the buildings, Grand River Elementary, decided to use the bid and immediately wire the building. They did so knowing that they would lose the 90 percent funding from the USF that they were eligible for. A Funding Request was not submitted for Grand River Elementary.**

- For the Digital Data Solutions FRN(s), there were some items in the bid that were either for ineligible items in eligible buildings, or for items in buildings that were ineligible, such as the Warehouse and the Bus Transportation Center.
- For the Ameritech Centrex (FRN # 787481) and the Ameritech POTS (Frn # 787502), the amounts were derived from billing statements. We calculated the number of lines servicing ineligible buildings and offices that were considered ineligible in other eligible buildings, and determined that they represented just under 3 ½ percent of the lines in use. As a result, we used a 96 ½ percent basis for calculating the amounts requested on the funding requests.
- The same 96 ½ percent basis was used in calculating the funding request for Owest (LCI) FRN, # 770936.
- For the Pager account, which is again through Ameritech, we determined the eligibility on a pager by pager basis. The spreadsheet showing those costs was included in the documentation for the 471, and is included in the Chapter 11 documentation. A copy of the annual invoice is also included.
- For the Cellular account, which is through CenturyTel (now ALLTEL), we actually took the cell phones that the district owned and operated and broke them into 4 accounts; 2 that were USF eligible and 2 that were not USF eligible. For each type, we broke the accounts into phones that pooled minutes and accounts that did not pool minutes. The funding request for this was denied by the USF, an appeal of which is now being filed. The specific reason for the appeal was that more than 30 percent of the total costs were for non-eligible staff. As I mentioned, it is being challenged.

Paragraph 5, under the Bids Area, you wrote: In your response on 2/27, you had indicated that Michigan State was selected for Internet access when Merit had already placed a bid. Why did not Michigan State bid on the contract?

Response: Michigan State University did place a bid on the Internet access, it was done after the 470 RFP had closed and was done at the request of the Lansing School District. In my first response to you, my statement that Merit was the lone responder to the Internet access part of the 470 RFP was meant to apply specifically to the bids that were received before bids were opened. Knowing that the MSU costs were much less, I sent out the email to get a current price to use as a bid. After the MSU temporary po (again, included in this response and overlooked in the first response) you will find a document that contains an email trail related to this issue, between Richard Moore of MSU and myself. As they were the incumbent ISP for the district, they thought an earlier document would have sufficed.